

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Rackim Lavan Williams, a/k/a)	
Rackim Williams,)	
)	
Plaintiff,)	C/A No. 8:14-4369-TMC
)	
vs.)	ORDER
)	
Officer Clifton Davenport,)	
)	
Defendant.)	
_____)	

Plaintiff, Rackim Lavan Williams, proceeding *pro se* and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. On October 13, 2015, Defendant filed a motion for summary judgment. (ECF No. 48). The magistrate judge issued a *Roseboro* Order directing Plaintiff to respond to the motion for summary judgment. (ECF NO. 52). The *Roseboro* Order, which was mailed to the address provided by Plaintiff, was returned as undeliverable. (ECF No. 56). Plaintiff was advised of the consequences of failing to apprise the court of any changes to his address. (ECF No. 9 at 3). The magistrate judge also sent the *Roseboro* Order to a non-prison address used by Plaintiff on a certificate of service.¹ (ECF No. 58). The mail has not been returned as undeliverable, but Plaintiff did not respond. Therefore, the magistrate judge issued a Report and Recommendation (“Report”), recommending that the action be dismissed for failure to prosecute. (ECF No. 62).

¹ It appears that Plaintiff is no longer incarcerated. In Defendant’s motion for summary judgment, Defendant states that Plaintiff received a ten-year sentence on September 21, 2006, for lynching. (ECF No. 48 at 1). The motion states that Plaintiff “was recently released to community supervision.” (ECF No. 48 at 1). The court has also used the “Incarcerated Inmate Search” on the South Carolina Department of Corrections website to determine whether Plaintiff is still incarcerated, and the court was unable to locate an inmate by searching his name or his South Carolina Department of Corrections Identification Number. *See Philips v. Pitt Cnty. Mem. Hosp.*, 572 F.3d 176, 180 (4th Cir. 2009) (courts “may properly take judicial notice of matters of public record.”).

Plaintiff was advised of his right to file objections to the Report. (ECF No. 62-1). However, Plaintiff has not filed any objections to the Report, and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the court adopts the Report (ECF No. 62) and incorporates it herein. Accordingly, this action is **DISMISSED with prejudice** for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) and the factors outlined in *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982). *See Ballard v. Carlson*, 882 F.2d 93 (4th Cir. 1989). Further, Defendant’s motion for summary judgment (ECF No. 48) is **DENIED as moot**.

IT IS SO ORDERED.

s/Timothy M. Cain
Timothy M. Cain

December 16, 2015
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.